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## DIGEST

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HB 78 Reengrossed

2018 Regular Session

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**Abstract:** Creates the crime of hazing at certain education institutions and provides for exceptions, definitions, and penalties relative to the offense, and further provides relative to consequences imposed by the education institution for acts of hazing.

Present law provides that hazing in any form, or the use of any method of initiation into fraternal organizations in any educational institution supported wholly or in part by public funds, which is likely to cause bodily danger or physical punishment to any student or other person attending any such institution is prohibited. Further provides that whoever violates these provisions of present law shall be fined not less than \$10 nor more than \$100, or imprisoned for not less than 10 days nor more than 30 days, or both, and in addition, shall be expelled from the educational institution and not permitted to return during the current session or term in which the violation occurs.

Proposed law amends present law to apply to any organization in an education institution, and to remove the fine and term of imprisonment as consequences for engaging in this activity and provide that the student shall be dismissed, suspended, or expelled from the education institution for at least one semester, quarter, or comparable academic period. Further provides that persons who engage in such activity may be subject to the provisions of proposed law which provides penalties for persons who engage in hazing activity.

Proposed law creates the crime of hazing which prohibits any person from committing an act of hazing as defined by proposed law, regardless of whether the person voluntarily allowed himself to be hazed or consented to the hazing. Further provides for the following penalties:

- (1) A fine of up to \$1,000, imprisonment for up to six months, or both.
- (2) If the hazing results in the serious bodily injury or death of the victim, or if the hazing involves forced or coerced alcohol consumption that results in the victim having a blood alcohol concentration of at least .25 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood, the person who committed the act of hazing shall be fined up to \$10,000, and imprisoned, with or without hard labor, for up to five years.

Proposed law also provides that if any person serving as a representative or officer of an organization, including any representative, director, trustee, or officer of any national or parent organization of which any of the underlying organization is a sanctioned or recognized member at the time of the hazing, knew and failed to report to law enforcement that one or more of the organization's members were engaging in or participating in the hazing of another person, the

organization may be subject to the following:

- (1) A fine of up to \$10,000.
- (2) Forfeiture of any public funds received by the organization.
- (3) Forfeiture of all rights and privileges of being an organization that is organized and operating at the educational institution for a specific period of time as determined by the court. If the hazing results in the serious bodily injury or death of the victim, or results in the victim having a blood alcohol concentration of at least .25 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood, the period of time shall be for not less than four years.

Proposed law authorizes the national or parent organization to conduct a timely and efficient investigation, of not longer than 14 days, to determine the veracity of an allegation of hazing prior to reporting the hazing to law enforcement.

Proposed law defines "hazing" as any intentional, knowing, or reckless act by a person acting alone or acting with others that is directed against another when both of the following apply:

- (1) The person knew or should have known that the act endangers the physical health or safety of the other person or causes severe emotional distress.
- (2) The act was associated with pledging, being initiated into, affiliating with, participating in, holding office in, or maintaining membership in any organization.

Proposed law further provides that "hazing" includes but is not limited to any of the following that is associated with pledging, being initiated into, affiliating with, participating in, holding office in, or maintaining membership in any organization:

- (1) Physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity.
- (2) Physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, or calisthenics, that subjects the other person to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual or causes severe emotional distress.
- (3) Activity involving consumption of food, liquid, or any other substance, including but not limited to an alcoholic beverage or drug, that subjects the individual to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual or causes severe emotional distress.
- (4) Activity that induces, causes, or requires an individual to perform a duty or task that involves the commission of a crime or an act of hazing.

Proposed law provides exceptions for normal physical activity associated with athletics, physical education, military training, or similar programs.

Proposed law also defines "organization" as a fraternity, sorority, association, corporation, order, society, corps, cooperative, club, service group, social group, band, spirit group, athletic team, or similar group whose members are primarily students at, or former students of, an elementary or secondary school or a postsecondary education institution in this state. Further includes the national or parent organization of which any of these underlying entities is a sanctioned or recognized member at the time of the hazing.

Finally, proposed law provides that the penalties provided by proposed law do not preclude any civil remedies provided by present law and may be imposed in addition to any penalty that may be imposed for any other present law criminal offense arising from the same incident or activity, and in addition to any penalty imposed by the organization or educational institution pursuant to its by-laws, rules, or policies regarding hazing.

(Amends R.S. 17:1801; Adds 14:40.8)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Provide that the penalty provision imposing upon a person who engaged in or participated in the hazing a fine of up to \$10,000, and imprisonment for up to five years, shall also apply if the hazing resulted in the victim having a blood alcohol concentration of at least .25 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood.
2. Specify that the penalties imposed upon the organization applies if any person serving as a representative or officer of an organization, including any representative, director, trustee, or officer of any national or parent organization of which any underlying organization is a sanctioned or recognized member, knew and failed to report the hazing to law enforcement.
3. Decreases the potential fine imposed upon the organization from \$100,000 to \$10,000.
4. With regard to the court's authority to order that the organization forfeit all rights and privileges of being an organization that is organized and operating at the educational institution, provide that the court shall specify the duration and requires the duration to be at least four years if the hazing results in death, serious bodily injury, or the victim having a blood alcohol concentration of at least .25 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood.
5. With regard to the exception for physical activities associated with athletic, physical

education, military training, or similar programs, specify that the activity must be normal, customary, and necessary for the person's training and participation in the program.

6. Amend the definition of "organization" to include the educational institution and the national or parent organization of which any of the underlying entities is a sanctioned or recognized member at the time of the hazing.
7. Provide that the duration for which any student that is suspended or dismissed from the educational institution for violations of the present law provisions which prohibit hazing shall be for at least the current session or term in which the hazing occurs.
8. Provide that the Act shall be referred to as "The Max Gruver Act".

The House Floor Amendments to the engrossed bill:

1. Amend the elements of the offense to provide that it shall be unlawful for any person to commit an act of hazing as defined by present law.
2. Specify that the penalty provision imposing upon a person who commits an act of hazing a fine of up to \$10,000, and imprisonment for up to five years, shall apply if the hazing involves forced or coerced alcohol consumption that results in the victim having a blood alcohol concentration of at least .25% by weight based on grams of alcohol per one hundred cubic centimeters of blood.
3. Add a provision which authorizes the national or parent organization to conduct a timely and efficient investigation to determine the veracity of an allegation of hazing and requires the investigation to be no longer than 14 days from the date of receiving the report of the alleged act or acts of hazing.
4. Restore the provision of present law which authorizes the education institution to suspend or dismiss a student who violates the present law prohibition on hazing, and further provide that such suspension or dismissal may be for at least one semester, quarter, or comparable academic period.
5. Change references from "educational institution" to "education institution" to conform with terminology in present law (Title 17).